IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3983 OF 2004

Yatin Rameshchandra Dalal ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr. S.V. Marwadi, for the Applicant.

Mr. K.V. Saste, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

29th September 2004

P.C.:

. Heard Counsel for the parties. Mr. Marwadi for the Applicant contends that the co-accused has been released on bail by the trial Court and the Applicant ought to have been released on bail on parity. There is no substance in this submission. Insofar as the Applicant is concerned, the record indictes that contraband article was seized from the possession of the Applicant herein. To get over this position, Mr. Marwadi contends that the entries

in the record create doube regarding the genuineness of the prosecution case and will have to be held as suspicious. It is not possible to appreciate the documents, which is the attempt of the learned Counsel. Whether there is any discrepancy in the record is a matter for trial. Suffice it to observe that the seizure panchnama indicates that the contraband article was seized from the possession of the Applicant herein. The learned A.P.P. submits that even the F.I.R. reinforces that position. Be that as it may, in view of the materials on record, not a case for grant of bail. Rejected.

. At this stage, Mr. Marwadi submits that the Court may clarify that any observation made in this order should not influence the trial Court in deciding the case which is pending before it. Needless to observe that any observation made while deciding bail application cannot be the basis to hold against the accused while finally disposing of the case, as the Court is obliged to decide the case on its own merits on the basis of evidence on record.

(A.M.KHANWILKAR,J.)